

SENTENCING MINUTES

Date: 03/15/2021

Judge: LIAM O'GRADY
Reporter: Scott Wallace
Time: 10:05 a.m. – 10:50 a.m.
(00:45)
Case Number: 1:20CR82

UNITED STATES OF AMERICA

Counsel/Govt: Carina Cuellar

v.

John William Kirby Kelley

Counsel/Deft: Cadence Mertz and Nathaniel Wenstrup

Gov't argues for 60 months.
Deft argues for Time Served.

Court adopts PSI (X) without exceptions (X) with exceptions:

SENTENCING GUIDELINES:

Offense Level: 24
Criminal History: 1
Imprisonment Range: 51 to 60 months
Supervised Release Range: 1 to 3 years
Fine Range: \$20,000 to \$200,000
Restitution \$ 7,560.69
Special Assessment \$100

Court departs from Guidelines pursuant to:

 USSG 5H1.4
 USSG 5K1.1
 USSG 5K2.12
 USSG 5C1.2

Other:

JUDGMENT OF THE COURT:

BOP for 33 months with credit for time served.

Supervised Release for 3 Years, with special conditions: (X) Yes () No

Fine Imposed N/A

Restitution of \$7,560.69 to be paid in monthly installments of \$ 100 or as directed by USPO to begin w/in 60 days of release from custody.

Restitution Order entered in open court

Special Assessment \$100

SPECIAL CONDITIONS:

1. The defendant shall participate in a program approved by the United States Probation Office for substance abuse, which program may include residential treatment and testing to determine whether the defendant has reverted to the use of drugs or alcohol, with partial cost to be paid by the defendant, all as directed by the probation officer.
2. The defendant shall participate in a program approved by the United States Probation Office for mental health treatment. The cost of this program is to be paid by the defendant as directed by the probation officer.
3. The defendant shall comply with the requirements of the computer monitoring program as administered by the probation office. The defendant shall consent to the installation of computer monitoring software on any computer to which the defendant has access. Installation shall be performed by the probation officer. The software may restrict

and/or record any and all activity on the computer, including the capture of keystrokes, application information, internet use history, email correspondence, and chat conversations. A notice will be placed on the computer at the time of installation to warn others of the existence of the monitoring software. The defendant shall also notify others of the existence of the monitoring software. The defendant shall not remove, tamper with, reverse engineer, or in any way circumvent the software. The costs of the monitoring shall be paid by the defendant.

4. The defendant shall not engage in spamming or email bombing.
5. The defendant shall pay restitution to be determined by the Court. Each restitution payment shall be divided proportionately (unless otherwise ordered) among the victims in the amount of no less than \$100 per month or as directed by the U.S. Probation Office.

RECOMMENDATIONS to BOP:

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|-------|------------------------------------------------------------------------------------------------------------------|
| X | Dft. To be designated to: Petersburg or as close to Northern Virginia as possible |
| _____ | Dft. designated to facility to participate in ICC (Boot Camp) type program |
| _____ | Dft. to participate in 500 hr Residential Drug Abuse Treatment Program (RDAP) |
| X | Other: Defendant to participate in a Life Skills Program as well as Mental Health Treatment while in BOP custody |
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Deft: (X) Remanded () Cont'd on Bond to Self-Surrender () Referred to USPO () Immediate Deportation